

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NORTHWEST ADMINISTRATORS, INC.,

Plaintiff,

v.

GARRETT CONSTRUCTION CO., INC.,  
a Washington corporation,

Defendant.

NO.

COMPLAINT TO COMPEL AUDIT

I.

Plaintiff, Northwest Administrators, Inc., is an organization incorporated under the laws of the State of Washington, with its principal place of business in King County, and is the authorized administrative agency for and the assignee of the Western Conference of Teamsters Pension Trust Fund (hereinafter "Trust").

II.

The Western Conference of Teamsters Pension Trust Fund is an unincorporated association operating as a Trust Fund pursuant to Section 302 of

1 the Labor Management Relations Act of 1947, as amended, to provide retirement  
2 benefits to eligible participants.

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4 III.

5 This Court has jurisdiction over the subject matter of this action under  
6 Section 502(e)(1) and (f) of the Employee Retirement Income Security Act of 1974  
7 ("ERISA"), 29 U.S.C. §1132(e)(1) and (f) and under §301(a) of the Taft-Hartley Act,  
8 29 U.S.C. §185(a).

9 IV.

10 Venue is proper in this District under Section 502(e)(2) of ERISA, 29 U.S.C.  
11 §1132(e)(2), because the Plaintiff Trust Fund is administered in this District.

12 V.

13 Defendant is a Washington corporation.

14 VI.

15 Defendant is bound to a collective bargaining agreement with Local 174 of  
16 the International Brotherhood of Teamsters (hereinafter "Local"), under which the  
17 Defendant is required to promptly and fully report for and pay monthly contributions  
18 to the Trust at specific rates for each hour of compensation (including vacations,  
19 holidays, overtime and sick leave) said Defendant pays to its employees who are  
20 members of the bargaining unit represented by the Local (such bargaining unit  
21 members are any of the Defendant's part time or full time employees who perform  
22  
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26

1 any work task covered by the Defendant's labor contract with the Local, whether or  
2 not those employees ever actually join the Local).

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4 VII.

5 Defendant accepted the Trust's Agreement & Declaration Agreement ("Trust  
6 Agreement") which provides in part:

7 Each Employer shall promptly furnish to the Trustees or  
8 their authorized representatives on demand any and all  
9 records of his past or present Employees concerning the  
10 classification of such Employees, their names, Social  
11 Security numbers, amount of wages paid and hours  
12 worked or paid for, and any other payroll records and  
13 information the Trustees may require in connection with  
14 the administration of the Trust Fund, and for no other  
15 purpose. The Trustees or their authorized  
16 representatives may examine any books and records of  
17 each employer, which the Employer is required to furnish  
18 to the Trustees on demand whenever such examination  
19 is deemed necessary or desirable by the Trustees in the  
20 proper administration of the Trust. If it becomes  
21 necessary for the trustees to retain legal counsel to  
22 compel an Employer to furnish to, or permit the  
23 examination of books, or records or information by, the  
24 Trustees or their representatives, the Employer shall  
25 reimburse the Trust fund for all reasonable attorney's  
26 fees and court costs incurred by the Trust Fund in  
connection therewith, whether or not legal proceedings  
were instituted and whether or not such examination  
disclosed that the Employer has failed to make  
appropriate or timely Employer Contributions to the Trust  
Fund.

VIII.

23 The Trustees of the Western Conference of Teamsters Pension Trust deem  
24 it both necessary and advisable to the proper administration of the Trust that their

1 authorized representatives examine the Defendant's books and records for the  
 2 period April 1, 2012 through the Present date to determine if the Defendant  
 3 previously reported for and paid to the Trust all of the amounts due for the  
 4 Defendant's employment of members of the bargaining unit represented by the  
 5 Trust for said period.

# IX.

8 Despite notification to the Defendant of the Trustees' desire to conduct an  
 9 audit for the period April 1, 2012 through the Present Date, and demands made  
 10 upon the Defendant on the Trust's behalf for access to Defendant's records for an  
 11 examination of them for that period, to date the Defendant has failed and refused to  
 12 make its records available for the thorough examination the Trustees deem  
 13 necessary and advisable to the proper administration of the Trust.

14 WHEREFORE, plaintiff, on the Trust's behalf, prays the court as follows:

15 1. That the Court enter an Order Compelling Audit under which  
 16 Defendant shall be directed by the Court, within a specified time, to make available  
 17 to the authorized representatives of the Trustees of the Trust for the period April 1,  
 18 2012 through the Present Date:

- 21 A. Individual payroll records for all employees;
- 22 B. Employer roster listing all employees, with hire or position date changes;
- 23 C. State of Washington Quarterly Wage and Withholding Reports – or – State Employer Security Reports;
- 24 D. State Industrial Insurance or comparable reports;
- 25 E. Quarterly FICA and Federal Income Tax Reports (941/941A);

- F. Annual Federal Unemployment Reports (FUTA 940);
- G. Labor Contracts – plus any addendums or supplements, if applicable; and
- H. Payroll or accounts payable records for temporary agency personnel.

2. Afford to the authorized representatives of the Trustees of the Trusts both ample time and opportunity to examine all such materials of Defendant at such time and at such place as shall be convenient to the Trustees' authorized representatives.

2. For judgment against the Defendant for:

- A. All of the Plaintiff's attorney's fees incurred in gaining auditor access to Defendant's records;
- B. All of the Plaintiff's costs incurred in gaining auditor access to defendant's records, and
- C. For such other and further relief as the Court may deem just and equitable.

DATED this 9<sup>th</sup> day of September, 2016.

REID, MCCARTHY, BALLEW & LEAHY,  
L.L.P.

  
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Russell J. Reid, WSBA #2560  
Attorney for Plaintiff